



Board of Adjustment

City of St. Louis
Room 400, City Hall
1200 Market Street
Saint Louis, Missouri 63103

RULES AND REGULATIONS GOVERNING PROCEDURE OF THE BOARD OF ADJUSTMENT OF THE CITY OF SAINT LOUIS

Pursuant to Section 26.84.020 of the Revised Code of The City of Saint Louis, the Board of Adjustment of the City of Saint Louis, a quasi-judicial body, hereby adopts the following Rules and Regulations in order to provide a more practical instrument of service.

1. RULES AND REGULATIONS:

These Rules and Regulations shall be reviewed, by the Board of Adjustment, at least once a year or as may be required by Chapter 26 of the Revised Code of the City of St. Louis. The Rules shall be amended by the concurring vote of four (4) Members of the Board of Adjustment with the concurring resolution of the Board of Aldermen. All proposed amendments to these Rules and Regulations shall be reviewed by the Board's legal counsel and submitted to all Board Members for review at least one (1) week prior to the Board's vote on any amendment.

2. ELECTION OF OFFICERS:

There shall be a Chairperson elected by a simple majority of the five (5) member Board, excluding alternates. The Chairperson shall be voted on and shall serve for one (1) year. The Chairperson shall be elected in the month of December and his/her term shall commence on January 1 of the next year.

If the Board Officer (Chairperson) resigns or otherwise vacates the Office, a remaining Board Member shall immediately request a motion from the Board to select a member to fill the unexpired term of the vacated office.

3. **DUTIES OF THE CHAIRPERSON:**

Chairperson - The Chairperson shall preside at the meetings of the Board and shall call all meetings. It shall be the Chairperson's duty to conduct all hearings in an orderly manner, to rule on objections and to conduct a fair and impartial hearing.

4. **DUTIES OF MEMBERS:**

Board Members shall promptly attend all meetings and notify the Secretary of the Board, a reasonable time in advance of a meeting, if the Member will be delayed or absent.

Board Members shall be familiar with the Zoning Code and review each appeal before the Board prior to the hearing.

Board Members shall not discuss any pending appeal with the appellant or any interested party or receive testimony or evidence on any pending appeal outside the public hearing of that appeal. Board Members shall approach each appeal in a fair and open-minded manner and shall base their decision solely on the evidence presented at each hearing.

A Board Member shall disqualify himself or herself in any case before the Board if the Member's business or personal interests are involved in any way with a case. The Member shall notify the Secretary, prior to the hearing date, that he or she is disqualifying himself or herself from a hearing and the reasons for the disqualifications. Such notification should be in writing, if practical.

Board Members shall review meeting minutes for accuracy and advise the Board Chairperson of needed amendments. Board Members shall vote to approve the minutes of Board meetings when they are satisfied that the minutes are complete and correct.

Board Members shall not, either individually or collectively, hold themselves out as representing the Board of Adjustment other than at duly convened meetings of the Board.

5. **DUTIES OF SECRETARY:**

The Secretary of the Board of Adjustment shall be an employee of the City of St. Louis, and shall be the custodian of the records of the Board of Adjustment.

The Secretary shall attend all meetings of the Board. The Secretary shall keep

accurate minutes of all the meetings as required by Section 26.84.030 of the Zoning Code. This shall include marking all proposed exhibits.

The Secretary shall promptly notify the City Counselor's Office of any appeal from a decision of the Board of Adjustment or legal action taken against the Board of Adjustment.

If the appointed Secretary shall be absent from any meeting of the Board, the appointed Secretary shall arrange to have another employee of the City temporarily assume the Secretary's duties.

The Secretary shall send copies of appeals to all Board Members for their review prior to the hearing.

The Secretary shall contact duly appointed Alternate Members to fill any vacancies caused by the absence or disqualification of a Member.

The Secretary of the Board shall notify the applicant or his representative of the Board's decision in writing, normally within two (2) weeks of the Board's decision, and shall be prepared to orally advise anyone of the Board's decision on the afternoon following the Board's oral decision.

The Secretary shall keep all exhibits, applications and plans for all cases in a permanent place provided for by the City, except those which are allowed to be withdrawn to be available for an appeal. If it is necessary for any person to remove exhibits, plans or other papers from the file, the Secretary shall obtain a signed receipt from the person taking the items stating where the items may be found.

Such files may be destroyed after five (5) years, if no appeal has been filed, with the approval of the City Counselor and the Board of Estimate and Appointment, pursuant to Art. XV of the Charter of the City of St. Louis.

6. APPEALS TO THE BOARD:

Appeals to the Board may be made by any aggrieved person, by any neighborhood organization as defined in Section 32.105, RSMo, representing such person, or by any officer, department, board or bureau of the City of St. Louis affected by any decision of the Building Commissioner or the Board of Public Service relating to a zoning matter.

Appeals to the Board shall be filed with the Secretary of the Board of Adjustment within thirty (30) calendar days of a decision of either the Building Commissioner or the Board of Public Service on forms provided by the Secretary for such appeal.

The appeals shall be numbered sequentially and heard by the Board in that order, if practical. Appeals shall be heard within thirty (30) calendar days of their being filed, if practical.

The Secretary shall have the notice of the appeal published in the City Journal in two (2) issues preceding the date of the hearing.

A notice of the appeal hearing shall be posted in the front and rear of the subject property, if practical, at least fifteen (15) calendar days prior to the hearing date so that interested parties in the vicinity may have due notice of said appeal.

The posted notices shall be approximately 22 inches by 14 inches and shall briefly state the nature of the appeal and the date, place, and time of the hearing on the appeal in substantially the following form:

PUBLIC NOTICE

**Notice is hereby given that an appeal from
the (Building Commissioner or Board of Public Service)
has been made for the purpose of seeking a permit to
(Describe nature of permit and the property involved).**

**A public hearing will be held on the ____ day of _____, 20__, in
Room ____, City Hall at ____p.m.**

**BY ORDER OF THE
BOARD OF ADJUSTMENT**

Upon posting of the notice(s) of the hearing by the Zoning Section, the person posting the property shall file a written report with the Secretary of the Board describing the location, date, and time of the posting. Said written report shall be placed in the appeal file and become an exhibit.

7. TRANSCRIPTS:

A record of all testimony before the Board of Adjustment shall be made by a

certified court reporter. Any party requesting a transcript of such record shall bear the cost of the transcription.

8. **CONTINUANCES:**

Any interested party, upon good cause shown, may apply to the Board for a continuance. The application for a continuance shall be either be in writing and submitted to the Chairperson in care of the Board's Secretary a minimum of seven (7) calendar days before the hearing, or shall be orally presented before the board on the date set for hearing. The application shall state the reason(s) that a continuance is being requested.

Requests for continuance shall be publicly considered and acted upon by the Board on the day of the hearing. Anyone opposed to the continuance shall be allowed to testify. A continuance may be granted if at least four Members find good cause.

Normally the Board will allow a maximum of two (2) continuances per side per appeal. If a continuance is granted, the hearing shall be set for a subsequent meeting of the Board and the property under consideration shall be posted again and the continuances shall be noted in the City Journal.

9. **MEETINGS:**

Meetings of the Board shall be at the call of the Chairperson or a majority of the Board. The number of appeals to be heard on a given date shall be at the discretion of the Chairperson, except that, the number of appeals shall not exceed six (6), unless determined otherwise by the Board. Meetings shall normally be held weekly on Wednesday at 1:30 p.m., and/or at such other times as the Board may determine.

Four (4) Members present, not including Ex-Officio Members, shall constitute a quorum to conduct business. No business shall be conducted without a quorum.

10. **CONDUCT OF MEETINGS:**

The Chairperson shall call the meeting to order. The Chairperson of the meeting shall introduce the Board Members and explain the procedure for the hearings. An appellant may appear in person, or be represented by an agent or legal counsel. If the appellant fails to appear, the appeal is subject to denial and dismissal.

After a witness has given his name and address, this witness shall be sworn in by either the Chairperson or court reporter at the discretion of the Chairperson.

After those in favor of an appeal and those opposed to the appeal have been heard, the appellant or any of the witnesses may be called again by any Board Member to clarify any matters which may arise from the testimony.

When the Chairperson is satisfied that Board Members have no further questions, the Chairperson shall inform those present at the hearing that no further testimony will be taken and that the appeal will be taken under advisement by the Board.

No further testimony will be taken on an appeal unless the Board votes to table the appeal for the purpose of obtaining further information or testimony.

Interested parties shall be advised that they may remain for the Board's deliberations at the conclusion of each day's hearings or they may call the Secretary the following afternoon for the Board's decision.

11. DELIBERATIONS:

After all cases have been heard, the Board shall discuss the issues involved and shall take action on each appeal. The Board may render a decision immediately or it may table an appeal but shall render a decision on it within a reasonable time after the hearing.

When deliberations have concluded, the Chairperson shall adjourn the meeting.

Deliberations are open to the public.

If the Board tables a decision on an Appeal, the property shall be reposted to publicly notify when deliberations will be held.

12. VOTING:

After consideration of the testimony on an appeal any Member may make a motion giving full reasons to either sustain, reverse or modify the decision of the Building Commissioner or Board of Public Service. When ruling so that a permit will be granted, the Board may attach reasonable conditions to the permit to be issued.

After a motion has been made, any Member may second the motion.

When the motion has been made and seconded, a vote will be taken by the Chairperson and the vote of each Member shall be recorded by the Secretary. Four (4) concurring votes of the Members shall be necessary to reverse any order, requirement, decision or determination of the Building Commissioner or the Board of Public Service.

All Members present who have heard the appeal shall cast a vote. If a Member is absent and his/her vote would affect the outcome of the appeal, the vote will be tabled, and the appeal voted on when five (5) Members are present and have reviewed the testimony and evidence. If a Member has recused him or herself from the Appeal and the outcome of the Appeal is affected due to the fact that there are only four members who can vote, then the vote shall be tabled and an alternate member shall review the testimony and evidence and the Appeal shall be voted on by five eligible voting members who have reviewed the testimony and evidence. The Secretary shall notify all interested parties of the time and place that the Board will reconvene for the purpose of this vote. After the Board adjourns for the day, the vote is final and cannot be reopened.

13. NEW APPLICATIONS ON THE SAME APPEAL:

New applications on an appeal previously ruled on by the Board cannot be considered for a period of one (1) year following the date of the Board's original written decision. The Board may, however, within one (1) year of its previous ruling, consider a new application for the same property if either the plan submitted or the conditions affecting the property has significantly changed. The Board shall review the new application and shall determine by a concurring vote of 4 regular Members if a new hearing is warranted

14. REVOCATIONS OF VARIANCES:

Any use which constitutes an enlargement, alteration or extension in the permitted use of a building, structure or premises for which a variance has been granted, or any permitted use of a building, structure or premises for which a variance with conditions has been granted and said conditions are not complied with shall be a violation of the Zoning Code.

Upon notice from the Code Official that a use which may constitute an enlargement, alteration or extension in the permitted use of a building, structure or premises for which a variance has been granted has occurred, or that a permitted use of a building, structure or premises for which a variance with conditions has been granted and said conditions are not complied with, the Board of Adjustment shall notify the owner of said building, structure or premises, and the party to whom said variance was granted, of a hearing to be

held within thirty (30) days of the date of said notice, to determine whether the use is an enlargement, alteration or extension in the permitted use for which a variance has been granted, or to determine whether the use for which a variance conditions has been granted is in compliance with said conditions.

If it is found by the Board of Adjustment that an enlargement, alteration or extension in the permitted use of the building, structure or premises for which a variance has been granted has occurred, or that the permitted use of the building, structure or premises for which a variance with conditions has been granted and said conditions have not been complied with, the variance or variance with conditions shall be revoked.


No new variance or variance with conditions shall be issued for the subject property for a period of one (1) year from the date of revocation.


15, **SAFEKEEPING OF RULES**

These rules shall be kept by the Secretary of the Board of Adjustment in the Secretary's Office and shall be open to public but the originals shall not be removed from the premises.

The foregoing Rules and Regulations being presented to the Members of the Board and put to a vote are hereby adopted as the Rules and Regulations of the Board of Adjustment, on this **23** Day of **JULY**, 2008, by the concurring votes of:


Mona Parsley, Member


George Hitt, Member


Joe Kitzing, Member


Irene Soll, Member


Sharon Cunningham, Chairperson


LaDonna Foster, Secretary